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COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STATE OF OHIO,)
PLAINTIFF,)
vs.) CASE NO. B-9907154
JOHN WALKER,)
DEFENDANT.)

- - -

TRANSCRIPT OF PROCEEDINGS

- - -

APPEARANCES:

Mr. Andrew A. Berghausen, Esq.
on behalf of the Plaintiff.
Mr. Edward Keller, Esq.
on behalf of the Defendant.

BE IT REMEMBERED that upon the
hearing of this cause, in the Common Pleas Court,
before the Honorable Thomas H. Crush, one of the
judges of the said Court of Common Pleas, on the
dates stated herein, the following proceedings
were had, to wit:

1 MORNING SESSION, DECEMBER 1, 1999

2 - - -

3 THE COURT: All right. We have State
4 of Ohio versus John walker, Case
5 Number B9907154.

6 Is this a plea as charged?

7 MR. KELLER: Yes, your Honor, it is.

8 MR. BERGHAUSEN: Yes, your Honor.

9 THE COURT: Okay. Mr. walker, before
10 I accept your plea, I'm required by law to
11 ask you some questions.

12 The first question is have you
13 received a copy of the indictment?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Before we go further,
16 I'll ask the prosecutor briefly to remind
17 you of the charge.

18 MR. BERGHAUSEN: The charge, your
19 Honor, is felonious assault, a violation of
20 2903.11, a felony offense of the second
21 degree.

22 The indictment charges that
23 Mr. walker did, on or about the ninth day
24 of September of this year, in this county,
25 knowingly cause or attempt to cause

1 physical harm to JoAnne McWorter by means
2 of a deadly weapon; in this particular
3 case, a motor vehicle.

4 The specific facts are, your Honor,
5 he repeatedly rammed his van into
6 Miss McWorter's car in an attempt to
7 knowingly cause or attempt to cause her
8 physical harm.

9 THE COURT: All right, sir. Do you
10 understand the charge?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Are you making this plea
13 of your own free will?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Has anyone made any
16 threats or promises to force you to plead
17 against your own will?

18 THE DEFENDANT: No, sir.

19 THE COURT: Do you understand that
20 the highest possible penalty in this case
21 is eight years in the state institution and
22 \$15,000 fine?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that if
25 you are sentenced to prison you have to

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serve whatever term you're given in its
entirety without reduction for good time?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you understand that if
you're sentenced to prison and commit
crimes in prison your prison term can be
increased up to an additional one half of
the original sentence?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you understand that if
you're sentenced to prison the parole board
can subject you to up to three years of
post-release control; and if you violate
that control, you could be sent back to
serve up to an additional one half of the
original sentence?

THE DEFENDANT: Yes, your Honor.

THE COURT: How old are you, sir?

THE DEFENDANT: Forty-nine.

THE COURT: How far did you go in
school?

THE DEFENDANT: Two years of college.

THE COURT: I'm holding before you
two paper forms. Each has your name and
this case number on it. One is entitled

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entry withdrawing plea of not guilty and
entering plea of guilty and the second is
entry on waiver of trial by jury.

Have you seen these forms before?

THE DEFENDANT: Yes, your Honor.

THE COURT: Did you read them and
discuss them with your lawyer?

THE DEFENDANT: Yes, sir.

THE COURT: Did you understand them?

THE DEFENDANT: Yes, sir.

THE COURT: And did you sign them of
your own free will?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that
when you plead guilty you are making a
complete admission of your guilt?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that if
you plead guilty that I can find you guilty
and sentence you this morning?

THE DEFENDANT: Yes, sir.

THE COURT: Are you presently on
probation or parole for any other offense?

THE DEFENDANT: No, sir.

THE COURT: Do you understand that

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you have an absolute right to a jury trial
guaranteed to you by the constitutions of
the United States and the State of Ohio?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that by
pleading you're giving up your right to a
jury trial?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that by
pleading you're giving up your right to see
the witnesses against you here in open
court and the right to have them
cross-examined at trial?

THE DEFENDANT: Yes, sir.

THE COURT: Are you a citizen of the
United States?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that by
pleading you're giving up your right to
have witnesses brought here by subpoena who
could testify for you at trial?

THE DEFENDANT: Yes, sir.

THE COURT: Do you understand that by
pleading you're giving up your right to a
trial at which you cannot be made to

1 testify against yourself?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you taken any
4 medicine, drugs or alcohol within the last
5 24 hours?

6 THE DEFENDANT: Just Motrin.

7 THE COURT: Pardon me?

8 THE DEFENDANT: Just some Motrin.

9 THE COURT: And whatever that
10 medicine is does not interfere with your
11 ability to think clearly, is that correct?

12 THE DEFENDANT: That's correct.

13 THE COURT: Okay. Have you discussed
14 this case thoroughly with your lawyer?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you still wish to
17 plead?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: What is your plea, sir?

20 THE DEFENDANT: It's guilty.

21 THE COURT: Is that correct,
22 Counselor?

23 MR. KELLER: Yes, your Honor.

24 THE COURT: The plea is accepted.
25 The finding is guilty.

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we can proceed with sentencing.
Counselor, do you wish to speak on behalf
of your client?

MR. KELLER: Your Honor, only to say
that my client has no memory of exactly
what happened.

The Court is very aware of the facts
in this case.

He did indicate to me that he would
like to indicate his remorse for what
happened. This other person, as far as
another personality, did that.

It's related to alcohol. He said he
had some long periods of sobriety, but when
he has some depression he resorts to his
alcohol. That's exactly what happened in
this case.

He was just not within control of
himself and he regrets it.

THE COURT: All right.

Mr. Walker, do you want to say
anything on your own behalf or present any
information to lessen the penalty?

THE DEFENDANT: I would like to say
I'm extremely sorry to Mrs. McWorter for

1 all the trouble I caused her.

2 THE COURT: All right.

3 MR. KELLER: Judge, I might also
4 indicate that the injuries were very
5 slight, but certainly --

6 THE COURT: Fortunately.

7 MR. KELLER: Fortunately.

8 THE COURT: Is the victim here?

9 MR. BERGHAUSEN: She is not here,
10 your Honor.

11 THE COURT: All right. We know that
12 the defendant has been in court a number of
13 times.

14 He was born on July 25, 1950. And
15 there are a number of DUIs in his
16 background. I can't tell whether they're
17 all convictions.

18 He has been arrested for two DUIs in
19 Butler County in October of '98; one in
20 Dade County, Florida, in '99; one in Orange
21 County, Florida, in '87; and Hamilton
22 County -- or excuse me, in Houston, Texas,
23 in '86. There is a forgery conviction in
24 '85. In '96, in some place in California
25 -- I can't read it -- Yardland, Woodland,

1 something -- there was a controlled
2 substance and hypodermic needle; DUI and
3 marijuana in Houston in '80; a D.U.I. and
4 leaving the scene -- I'm not sure where
5 that was -- assault; assault dismissed in
6 Washington in '79 -- Washington, State of
7 Washington, I guess; and another one in '79
8 -- I can't read what it was.

9 You're just lucky this wasn't a
10 murder.

11 At any rate, it will be three years
12 Ohio Department of Corrections. Pay the
13 costs. Credit --

14 How Many days has he been locked up?
15 Did you calculate it?

16 MR. KELLER: I don't know the count.

17 THE COURT: Was he arrested
18 September 13?

19 THE DEFENDANT: September 9.

20 MR. KELLER: September 9. The date
21 of the offense was September 9.

22 THE COURT: He was arrested the same
23 date?

24 MR. KELLER: Yes.

25 THE COURT: September 9?

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MR. KELLER: Yes. So the October in
Butler County must be a mistake.

THE COURT: That would be 21 days in
September, 31 in October, 30 in November
and 1 in December. It will be 83 days
credit. Credit 83 days.

The defendant will be remanded.

MR. KELLER: Yes, sir. Thank you,
sir.

(THE PROCEEDING WAS CONCLUDED.)

C E R T I F I C A T E

I, VALERIE A. BESSELMAN, the
undersigned, an Official Court Reporter for the
Hamilton County Common Pleas Court, do hereby
certify that at the time and place stated herein,
I recorded in stenotype and thereafter transcribed
into typewriting the within 12 pages; and that the
foregoing transcript is a true, complete, and
accurate transcript of my said stenotype notes
occurring on December 1, 1999.

IN WITNESS WHEREOF, I have hereunto
set my hand at Cincinnati, Ohio, this 7th day of
June, 2004.

Valerie A. Besselman

Valerie A. Besselman, RPR
Official Court Reporter
Hamilton County
Court of Common Pleas